



DOUGLAS T. SLOAN
City Attorney

November 2, 2016

MEMORANDUM

TO: Candidates for City Elective Office

RE: City Laws Applicable to Candidates for City Elective Office

In addition to state law requirements applicable to candidates seeking elective office in the City of Fresno, the City of Fresno has adopted local charter requirements, resolutions, and ordinances, summarized as follows:

1. **City Residency Requirement.** To be eligible to hold City elective office, a person must have been a resident of the City for at least 30 days immediately preceding the filing of the nomination papers for that office. (Charter Section 304.) To be eligible to hold office as a Councilmember, a person must have been a resident of the Council District for which he or she is seeking office, for at least the same time period. (Charter Section 304.1.)

To ensure compliance with the 30 day residency requirement for candidates seeking a Council office, the Council Residency Act ("Act") was enacted effective January 1, 2011. A copy of the Act, as amended, is attached as Exhibit "A". The Act requires candidates file specific documents with the City Clerk to verify their residency. The Act lists the documents that must be filed with the City Clerk, and the certification process that must be completed to be eligible for elective office.

2. **Charter Prohibition on Contributions.** Charter Section 309 states, "No mayoral candidate, Council candidate, or any committee controlled by such person shall solicit or accept any contribution in support of such candidate's election prior to the date fixed by law for the filing of nomination papers with respect to such election, or following the year in which such election is held." Pursuant to Charter Section 309, a candidate cannot begin soliciting or accepting contributions until after the date set by law for filing nomination papers.

In the past, we have received inquiries as to whether invitations to fundraisers to be held on or after the legal date for filing of nomination papers are permissible. The Charter provision expressly prohibits "solicitations" prior to the filing date. To "solicit" means that one is appealing for something or asking for the purpose of receiving. For this reason, Charter Section 309 prohibits invitations to a fundraiser for a candidate to be distributed prior to the date for filing nomination papers.

3. **Candidate Filing Fees and Alternative Signature Gathering Method.** The City Council has adopted Ordinance No. 93-32 setting candidate filing fees and adopting the Elections Code provisions for alternative signature gathering. These requirements are codified in Section 2-1003 through 2-1006 of the Fresno Municipal Code, which are attached as Exhibit "B." Where the ordinance is silent as to specific provisions, the Elections Office shall utilize Elections Code provisions for making determinations on the required number of signatures and the monetary value attributed to signatures.

4. **Campaign Contribution Limits Ordinance.** The City Council adopted an ordinance establishing campaign contribution limits to candidates in Chapter 2, Article 11 of the Fresno Municipal Code. The contribution limits for candidates for City elective office are the same as for candidates for State Assembly under the Political Reform Act (PRA). The contribution limits will be adjusted every odd numbered year by the Fair Political Practices Commission (FPPC), in accordance with the Consumer Price Index. The contribution limits, effective January 1, 2015 through December 31, 2016, are set at \$4,200 from persons, and \$8,500 from small contributor committees for each election (a primary and a general election are considered two elections). Political party committee contributions are not limited by the Fresno Municipal Code. Furthermore, effective February 10, 2014, any elected officer, candidate, committee, or other person required to file statements, reports, or other documents described by Chapter 4 of the Government Code (commencing with Section 84100) who receives contributions or makes expenditures totaling more than \$1,000 in a calendar year shall file those statements, reports, or documents online or electronically with the City. A copy of the ordinance is attached as Exhibit "C."

The ordinance complements the provisions in the Political Reform Act (Gov. Code §§ 81000, et seq.), which contain a comprehensive scheme on the conduct of election campaigns. The City Attorney's Office does not have the statutory duty or authority to give advice on the PRA or its application. Candidates should contact the FPPC for questions or advice relating to the PRA. The FPPC can be reached at 866-ASK-FPPC (toll free), or 916-322-5660.

5. **Charter Prohibition Against Political Activities.** Section 813 of the City Charter states:

No officer or employee of the city and no candidate for any city office shall, directly or indirectly, solicit any assessment, subscription, or contribution, whether voluntary or involuntary, for any political purpose whatsoever, from anyone on the eligible lists or holding any position in the Administrative Service.

This has been interpreted to prohibit telephone calls, faxes, and personal contacts for political purposes during business hours at City Hall or during an employee's or officer's hours of duty on City premises. See also Section 3-103 of the Fresno Municipal Code attached hereto as Exhibit "D."

The local provisions are consistent with Government Code Sections 3201, et seq., which among other things, prohibits public employees from engaging in the following types of activities:

- a. Unlawful use of office, influence, or authority;
- b. Solicitation of political funds or contribution from other officers, employees, or from persons on employment lists from the same local agency, or from which the candidate is seeking office;
- c. Arranging for increase in compensation or salary in exchange of contribution to committee or person seeking office;
- d. Participation in political activities while in uniform; and
- e. Participation in political activities during work hours on City premises, as governed by the local rules and regulations.


6. **Political Signs.** Political Signs are regulated as “yard signs” (without regard to content) under the City’s Development Code that became effective in January 2016. There is no application, permit, or fee requirement for yard signs. The former restrictions on political signs being allowed only between 90 days prior to an election and 15 days after an election no longer exist. However, the City does impose time, place, and manner restrictions on yard signs. The new Development Code at FMC Section 15-2611 (attached hereto as Exhibit “E”), states yard signs:

- a. May not exceed 32 square feet in area;
- b. May not exceed 10 feet in height;
- c. May not be attached to utility poles;
- d. May not be placed on any public right of way or any property owned by the City of Fresno;
- e. May be placed on private property with the permission of the property owner or on existing signs on private property with the permission of the sign owner or lessee; and
- f. May not be erected in a manner so that it will or reasonably may be expected to interfere with, obstruct, confuse, or mislead traffic.

Signs not erected or maintained in accordance with these provisions shall be the responsibility of the owner of the property on which the sign is located, shall be deemed a public nuisance, and may be abated by the property owner, the candidate or person advocating the vote described on the sign (if applicable), or the City. The cost of removal incurred by the City shall be assessed against the property owner and/or, if applicable, the candidate and/or person advocating the vote described on the sign.

This is general outline of applicable City provisions. Candidates are responsible for ensuring compliance with all state and local laws. The City Attorney’s Office does not provide legal advice to candidates for elective office. If you need an interpretation of the City Charter or the Fresno Municipal Code, you may submit your question in writing to the City Attorney. The written response will be provided to the requester and copied to all candidates for City office.

Respectfully submitted,


DOUGLAS T. SLOAN
City Attorney

c: Brandi L. Orth, County Clerk/Registrar of Voters
Bruce Rudd, City Manager
Yvonne Spence, City Clerk
Francine M. Kanne, Chief Assistant City Attorney

Attachments:

Exhibit “A” Council Residency Act
Exhibit “B” FMC Sections 2-1003 through 2-1006
Exhibit “C” Chapter 2, Article 11 FMC
Exhibit “D” FMC Section 3-103
Exhibit “E” FMC Section 15-2611

EXHIBIT A



CITY OF FRESNO

COUNCIL RESIDENCY ACT



January 9, 2014

The following policies are enacted to help insure that City Council candidates and current City Councilmembers reside in the district they will or do represent.



ARTICLE I DEFINITIONS

At Large Municipal Elections

In at large elections, all voters can vote for all seats up for election. At large elections allow a simple majority of the voters to elect all of the seats in a local election. This can result in disenfranchisement of the local electorate and elected bodies not in compliance with applicable law. Prior to 1981, City Council seats in Fresno were contested in at large elections.

City

"City" means the City of Fresno, a municipal corporation.

District Municipal Elections

A jurisdiction is divided into districts and one member is elected per district. Only the voters in a specific City Council district may vote for City Council candidates in that district.

Fresno City Charter Section 304

This Charter Section provides that no person shall be eligible to hold an elective office unless that person is, and has been for a period of at least 30 days immediately preceding the filing of nomination papers for such office or appointment of such office, a resident of the City, and has been at the time of assuming such office, an elector of the City.

Fresno City Charter Section 304.1

City of Fresno Charter Section 304.1 took effect on all municipal elections after 1981. It provides that no person shall be eligible to hold elective office as a Councilmember unless that person is, and has been for a period of at least thirty days immediately preceding the filing of nomination papers for such office or appointment to such office, a resident within the Council district corresponding in number to the office to which that person is elected or appointed.

Municipal Ordinance

A Municipal Ordinance is a law of local application. Local ordinances are adopted by the City Council and enforced by the City Manager and staff of local government.

Voting Rights Act of 1965

The National Voting Rights Act of 1965 outlawed discriminatory voting practices for the widespread disenfranchisement of minorities in the United States. The Act established extensive federal oversight of elections administration, providing that states and local governments with a history of discriminatory voting practices could not implement any change affecting voting without first obtaining the approval of the Department of Justice, a process known as preclearance.



ARTICLE II PURPOSE OF ACT

Prior to 1981, there was a concern that some citizens of Fresno did not have a Councilmember to properly represent their district. There was also a potential violation of the Voting Rights Act of 1965 and subsequent election laws governing citizen representation. This issue was finally decided by the voters in a ballot issue.

On May 31, 1977, the voters of Fresno amended Charter Section 304 to require that persons running for City municipal elections must live in the City for a period of at least 30 days immediately preceding the filing of nomination papers for City offices and live in the City at the time of assuming office.

The voters of Fresno also added Charter Section 304.1 to require that persons running for City Council seats must reside in the district at the time the nomination papers are filed for such office or appointment. It further provided that each Councilmember shall, during the Councilmember's term, reside within such Council district. This was strictly a residence requirement and elections continued to be held at large. On June 3, 1980, the voters amended Charter Section 304.1 to provide that each Councilmember must reside in, and be elected from the district corresponding in number to his/her office. Thus, only the electors from the district could vote for the Councilmember within such district.

Objectives of Act:

1. To provide stricter and more detailed criteria for establishing a Council candidates residency in the Council district. Developing structured, objective criteria will help ensure proof of district residency for Council candidates.
2. To provide stricter and more detailed criteria for establishing current Councilmembers' residency in the districts they represent during their term in office. Developing structured, objective criteria will help ensure proof of district residency during the entire term of a Councilmember.
3. To protect the interests of all Fresno citizens and insure proper representation by developing policies that will help ensure that the Councilmembers truly reside in the district they represent.
4. Adopt enabling legislation via a municipal resolution to establish necessary policies.

Accomplishing the above stated objectives will help ensure that both the letter and spirit of Charter Section 304.1 can be implemented as Fresno voters intended when they passed the ballot measure 30 years ago.



ARTICLE III ADVANTAGES OF DISTRICT REPRESENTATION

There are compelling reasons for establishing district representation. The Voter Rights Act of 1965 was the legislative vehicle for eliminating discriminatory voting qualifications, standards, practices, and procedures. The advantages of district elections include:

1. It encourages personal campaigns;
2. It encourages attention to neighborhood concerns;
3. It is easier for new candidates to win;
4. There is a lower cost of campaigning; and
5. It enhances descriptive representation and shared policy views and ideology.

Candidates not in compliance with the residency requirements of Charter Section 304.1 undermine the legal principles of representative local elections and raise questions regarding a local election's compliance with applicable law.

ARTICLE IV RESIDENCY REQUIREMENTS FOR COUNCIL CANDIDATES

In addition to providing the Fresno County Clerk proof of voter registration in the district residence claimed for running for a City Council seat, a candidate must provide the following additional information to verify their 30 day residency requirement:

1. Proof of home ownership as evidenced by 1) a copy of a grant deed, a mortgage payment billing statement verifying the address; or any other document that can verify home ownership and residency of the property; and 2) evidence of a homeowners property tax exemption filed with the Fresno County Assessor for proof that the home is the primary residence. If a candidate does not have a tax exemption on file they must submit an affidavit signed by the candidate verifying that the home is the candidates primary residence; or

If the home ownership is in the name of a person other than the candidate, or in the name of a legal entity, such as a trust, partnership or corporation, the candidate must submit an affidavit signed by the homeowner or authorized legal representative of the entity verifying that candidate is living in the home as his/her primary residence; or



2. If the residence is rented or leased by the candidate, the candidate will provide proof of residency by providing a signed copy of a lease or rental agreement. If the lease/rental agreement expiration date is longer than 90 days, the candidate shall provide a letter from the property manager or property owner verifying that the candidate is continuing on a month-to-month basis; or

If a candidate is living at a residence without a lease/rental agreement and whose name otherwise does not appear in the proof of home ownership, candidate must have landlord/property owner sign an affidavit, under penalty of perjury, verifying candidate's residency in landlords/property owner's property.

3. Proof of motor vehicle registration, if any motor vehicles are registered to the candidate for the residency claimed or proof of a valid California driver's license showing their address on their license is consistent with the address shown on their nomination papers. If the residence address on either the drivers license or auto registration is in the process to being changed, the candidate must provide a document from the California Department of Motor Vehicles (DMV14 form) verifying the change is in process. If a candidate does not own an automobile or does not have a California driver's license, the candidate must submit any other State of California issued identification showing their address on the identification document is consistent with the address shown on their nomination papers.
4. A PG&E bill or Fresno City Utility bill in the candidate's name showing that the service address is consistent with the address in candidate's nomination papers. In the event a PG&E and/or Fresno City Utility bill has not been generated, a letter from an authorized representative of the utility provider stating that an account has been opened in the candidate's name will suffice. If there is an agreement with a landlord or other legal entity, as verified by a rental contract or lease contract, that the landlord or other legal entity will pay the PG&E bill and/or the Fresno Utility bill, the candidate must submit an affidavit signed by the landlord or the other legal entity's authorized legal representative verifying that the landlord or other legal entity, is responsible for paying the PG&E bill and/or the Fresno City Utility bill.
5. The candidate must sign an affidavit, under penalty of perjury, verifying residency.

Failure to provide any of the above-required documents will disqualify a candidate from meeting the Charter Section 304.1 district residency requirement. Willfully submitting false, forged, altered documents or coercing or unduly influencing persons providing affidavit documents will also disqualify candidates and constitute a misdemeanor Charter violation in addition to any other legal remedy available to enforce a similar fraudulent act.



ARTICLE V

VERIFYING RESIDENCY AND CERTIFICATION FOR COUNCIL CANDIDATES

No earlier than the initial filing date for documents related to a candidate running for a City Council seat and no later than the closing date to file nomination papers, candidates are required to file all of the documents specified in Article IV above with the Fresno City Clerk's office for verification. The City Clerk will review and verify that all required information is correct and meets the requirements of this Act. The City Clerk will diligently work to review and verify all residency documents submitted. No later than five calendar days from receipt of the candidate's documents, the City Clerk's office shall complete the review and verification of the documents. The City Clerk will then do one of the following:

1. If all City residency requirements are satisfied pursuant to this Act, the City Clerk's office will mail a letter to the Fresno County Clerk's office and mail a letter to the candidate certifying that the candidate has met the City's residency requirements; or
2. If any deficiencies are discovered in the documents provided or certain documents are missing, the City Clerk's office will send a letter to the candidate showing the specific deficiency(s) or missing document(s). The candidate will have until the closing date to file nomination papers to correct the deficiencies and re-submit the required documents for verification to the City Clerk; or
3. If the candidate either fails to complete verification of all of the requirements of this Act within the prescribed time limits, or the resubmitted documents do not meet the requirements of the Act, the City Clerk's office will mail a letter to the candidate advising them that they have failed to meet the requirements of the Act; or
4. If the re-submitted documents by the candidate meet all requirements of this Act, the City Clerk's office will certify the Act's residency requirements have been met and mail a letter to the Fresno County Clerk's office and mail a letter to the candidate.

ARTICLE VI

VERIFYING RESIDENCY FOR COUNCILMEMBERS

Councilmembers are required to live in the district they represent during their entire term in office. To insure that Councilmembers continue to live in the district they represent, each Councilmember must submit the following documents to the City Clerk during the last 31 calendar days of the year (December 1st to 31st), at the end of each year in office:



1. Proof of home ownership as evidenced by 1) a copy of a grant deed, a mortgage payment billing statement verifying the address; or any other document that can verify home ownership and residency of the property; and 2) evidence of a homeowners property tax exemption filed with the Fresno County Assessor for proof that the home is the primary residence. If a Councilmember does not have tax exemption on file they must submit an affidavit signed by the Councilmember verifying that the home is their primary residence; or

If the home ownership is in the name of a person other than the Councilmember, or in the name of a legal entity, such as a trust, partnership or corporation, the Councilmember must submit an affidavit signed by the homeowner or authorized legal representative of the entity verifying that Councilmember is living in the home as his/her primary residence; or

2. If the residence is rented or leased by the Councilmember, the Councilmember will provide proof of residency by providing a signed copy of a lease or rental agreement. If the lease/rental agreement expiration date is longer than 90 days, the Councilmember shall provide a letter from the property manager or property owner verifying that the Councilmember is continuing on a month-to-month basis; or

If a Councilmember is living at a residence without a lease/rental agreement and Councilmember must have landlord/property owner sign an affidavit, under penalty of perjury, verifying Councilmember's residency in landlords/property owner's property.

3. Proof of motor vehicle registration, if any motor vehicles are registered to the Councilmember for the residency claimed or proof of a valid California driver's license showing their address on the license is consistent with their address on their original nomination papers. If the residence address on either the driver's license or auto registration is in process to being changed, the Councilmember must provide a document from the California Department of Motor Vehicles (DMC14 form) verifying the change is in process. If a Councilmember does not own an automobile or does not have a California driver's license, the Councilmember must submit any other State of California issued identification showing their address on the identification document is consistent with the address shown on their nomination papers.
4. A PG&E bill or Fresno City utility bill in the Councilmember's name showing that the service address is consistent with the address is in the Councilmember's original nomination papers in candidate's name. In the event a PG&E and/or Fresno City Utility bill has not been generated, a letter from an authorized representative of the utility provider stating that an account has been opened in the Councilmember's name will suffice. If there is an agreement with a landlord or other legal entity, as verified by a rental contract or lease contract, that the



landlord or other legal entity will pay the PG&E and/or the Fresno Utility bill, the candidate must submit an affidavit signed by the landlord or the other legal entity's authorized legal representative, verifying that the landlord or other legal entity is responsible for paying the PG&E bill and/or the Fresno City Utility bill.

5. The Councilmember must sign an affidavit, under penalty of perjury, verifying residency.
6. In the event that Councilmember moved to a new residence in the district after the filing of the previous affidavit, Councilmember must confirm, within 60 days of moving, using items 1 through 4, the new district residence address.
7. Incumbent councilmembers who have not relocated since the information required by this Article was last provided may comply with this Article by supplying a copy of a current driver's license and an affidavit that they have not relocated and all previously supplied information remains true and correct.

Failure to provide any of the above-required documents will disqualify a Councilmember from meeting the Charter Section 304.1 district residency requirement. Willfully submitting false, forged, altered documents or coercing or unduly influencing persons providing affidavit documents will also disqualify a Councilmember and constitute a misdemeanor Charter violation in addition to any other legal remedy available to enforce a similar fraudulent act.

ARTICLE VII INVESTIGATION AND ENFORCEMENT

Any fraudulent residency complaints shall be submitted to the City Attorney. The City Attorney will refer all complaints to the Fresno County District Attorney. The Fresno County District Attorney shall have the discretion to investigate residency complaints and if sufficient evidence of fraud is found during the investigation, the District Attorney can elect to prosecute.

ARTICLE VIII TRANSPARENCY

The City Clerk shall post the names, corresponding Council district and all required supporting documents, consistent with applicable confidentiality laws, of all candidates that have been certified to meet the residency requirements of this Act at the City's web site and have a hard copy of the list available to be picked up at the City Clerk's office during normal business hours. Any confidential information shall be redacted before the public record is made available for inspection, in accordance with the Public Records Act. After the General Election the list shall be removed from the City web site and hard copies will no longer be available for pickup at the City Clerk's office.



A PDF copy of this Act shall be available, year round, at the City's web site and a hard copy shall be available to be picked up at the City Clerk's office during normal business hours. This will enable prospective candidates to review residency requirements pursuant to this Act.

ARTICLE IX ONE YEAR REVIEW

One year from the adoption of this Act, the Council shall, at a regularly scheduled meeting, review the implementation and practice of this Act and, if necessary, amend the Act to reflect required changes.

ARTICLE X EFFECTIVE DATE

This resolution shall take effect January 31, 2014. This Act, along with any subsequent amendments, shall be the Council Residency Act of the City of Fresno.

63699elb/kbd Council Residency Act Amended 01-09-14

EXHIBIT B

SEC. 2-1003. - FILING FEES FOR MAYOR AND COUNCIL CANDIDATES.

The City Council, by resolution, may establish filing fees for the elective office of Mayor and Councilmember. Those fees shall not exceed the cost reasonably borne for conducting the election for the seat in question. The costs to be covered by the filing fees shall include all costs associated with the candidate's filing, including, but not limited to, the proportional cost in administering the election by the City Clerk or County Clerk under contract to provide election services.

(Added Ord. 93-32, § 1, eff. 5-4-93; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1004. - FILING FEE WAIVER PETITION.

In lieu of payment of the filing fees required under Section 2-1003, a candidate may gather signatures on a form to be provided by the City Clerk or County Clerk under contract to provide election services. For Council candidates, the number of signatures required shall be two hundred and fifty registered voters registered to vote within the Council district boundary. Candidates for Mayor shall collect five hundred signatures from voters registered within the City. A voter may sign both the nomination papers and the Filing Fee Waiver Petition for each candidate. A voter may only sign one filing fee waiver form for each office in which he or she is eligible to vote.

(Added Ord. 93-32, § 2, eff. 5-4-93; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1005. - FILING FEE WAIVER PROCEDURES.

By resolution, the City Council may adopt further regulations to implement the filing fee waiver process. The filing fee waiver forms shall be provided at no cost to each candidate upon request. However, the elections official may, rather than provide the candidate with the number of forms necessary to gather the requisite signatures, or, upon request of a candidate, provide the candidate with a master form, which may be duplicated by the candidate for the purpose of circulating additional petitions. No other form except the furnished form, or duplicates thereof, shall be used by a candidate to secure signatures. All forms shall be made available commencing forty-five days before the first day for circulating nominating papers. However, in case of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the prescribed nomination period would commence less than forty-five days after the declaration of the vacancy by the City Council, the forms shall be made available within five working days after the City Council declaration. The forms to be used shall be in substantially the same form as the nomination papers signature form.

(Added Ord. 93-32, § 5, eff. 5-4-93; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1006. - FILING FEE WAIVER REQUIREMENTS.

The fee waiver process shall be subject to the following provisions:

- (a) Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote.
- (b) If a voter signs more candidate's petitions than there are offices to be filled, the voter's signatures shall be valid only for those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.
- (c) In-lieu-filing-fee petitions shall be filed at least fifteen days prior to the close of nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, the elections official shall issue nomination papers provisionally. Within ten days after receipt of a petition, the elections official shall notify the candidate of any deficiency. The candidate shall

then, prior to the close of the nomination period, submit a supplemental petition to cover the deficiency.

- (d) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The elections official shall not be required to determine the validity of a greater number of signatures than that required by this section.

(Added Ord. 93-32, § 4, eff. 5-4-93; Am. Ord. 2007-55, § 4, eff. 9-4-07).

EXHIBIT C

ARTICLE 11 - CANDIDATES FOR ELECTIVE CITY OFFICE-CAMPAIGN CONTRIBUTION LIMITS

SEC. 2-1101. - TITLE.

This article may be cited as the "Local Campaign Contribution Limits Ordinance" of the City of Fresno.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1102. - PURPOSE AND APPLICATION.

The purpose of this article is to ensure that individuals and interest groups have a fair and equal opportunity to participate in municipal elective and governmental processes. This article is intended to supplement, and in no way conflict with, the Political Reform Act of 1974 ("Political Reform Act"), as amended. Statutory references to specific provisions of the Political Reform Act shall include its amendments.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1103. - DEFINITIONS.

- (a) Unless the particular provision or the context otherwise requires, the provisions, definitions of words and phrases, and interpretations of the Political Reform Act codified in Government Code Sections 81000 et seq., and its implementing regulations in California Code of Regulations, Title 2, Sections 18110 et seq., as amended, are to be relied upon in administering this article.
- (b) "Election" means any direct primary election, any general municipal election, and any special municipal election as outlined in Charter Sections 1400 and 1401. For purposes of this article, "election" does not include recall elections or elections on ballot measures.
- (c) "Enforcement Authority" means the officer, agent or organization designated by resolution of the Council to enforce the provisions of this article. Nothing in this article shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this article.
- (d) "Entity" means any person, other than an individual.
- (e) "Majority-owned" means an ownership of more than 50 percent.
- (f) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, a controlled committee, and any other organization or group of persons acting in concert, as defined in Government Code Section 82047.

- (g) "Political Party Committee" means a state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code, as defined in Government Code Section 85206.
- (h) "Small contributor committee" as defined in Government Code Section 85203, means any committee that meets all of the following criteria:
 - (1) The committee has been in existence for at least six months; and
 - (2) The committee receives contributions from 100 or more persons; and
 - (3) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year; and
 - (4) The committee makes contributions to five or more candidates.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1104. - OFF-YEAR CONTRIBUTION PROHIBITION.

In accordance with Charter Section 309, no Mayoral candidate, Council candidate, or any committee controlled by such person shall solicit or accept any contribution in support of such candidate's election prior to the date fixed by law for the filing of nomination papers with respect to such election, or following the year in which such election is held.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1105. - CAMPAIGN CONTRIBUTIONS—LIMITATIONS ON AMOUNT AND DOCUMENT FILING METHODS.

- (a) A person, other than a small contributor committee or a political party committee, may not make to any candidate for elective City office, and a candidate for elective City office may not accept from a person, any contribution totaling more than four thousand two hundred dollars (\$4,200) per election. The provisions of this section do not apply to a candidate's contributions of his or her personal funds to his or her own campaign.
- (b) A small contributor committee may not make to any candidate for elective City office, and a candidate for elective City office may not accept from a small contributor committee, any contribution totaling more than eight thousand five hundred dollars (\$8,500) per election.
- (c) The contribution limitations set forth in this article shall be adjusted in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index, as determined by the Fair Political Practices Commission pursuant to Government Code Sections 83124, 85301(a), and 85302(a).
- (d) It is the finding of the City Council that an elected officer, candidate, committee or other person required to file statements, reports, or other documents described by

Chapter 4 of the Government Code (commencing with Section 84100) who receives contributions or makes expenditures totaling more than \$1,000 in a calendar year shall file those statements, reports, or other documents online or electronically with the City. The City's online system can and will operate securely and effectively and will not unduly burden filers. By way of this finding, the use of online or electronic filing is hereby authorized and required for elected officers, candidates, committees and other persons filing statements, reports or other documents described in Chapter 4 of the Government Code.

- (1) In any instance in which an original statement, report or other document must be filed with the Secretary of State and a copy of that statement, report, or other document is required to be filed with the City, the filer may, but is not required to, file the copy online or electronically.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07; Am. Ord. 2014-3, §§ 1—3, eff. 2-10-14).

SEC. 2-1106. - LOANS.

- (a) The provisions of this article do not apply to loans and extensions of credit made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.
- (b) In accordance with Government Code Section 85307, a candidate for elective City office may not personally lend to his or her campaign an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate may not charge interest on any loan he or she made to his or her campaign.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1107. - AFFILIATED ENTITIES: AGGREGATION OF CONTRIBUTIONS.

- (a) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.
- (b) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.
- (c) Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.
- (d) Contributions made by a husband and wife may not be aggregated, and shall be treated as contributions from separate persons. Contributions made by a child

under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1108. - RESTRICTIONS ON CONTRIBUTIONS BY CANDIDATES.

A candidate for elective office or committee controlled by that candidate may not make any contribution to any candidate for elective city office in excess of the limits for persons set forth in Section 2-1105(a).

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1109. - RETURN OF EXCESSIVE CONTRIBUTIONS.

The candidate or the candidate's controlled committee shall return any amount in excess of the contribution limit set forth in this article to the contributor within 14 days of receipt. The excess contribution and the date of its return shall be reported on a form prepared or provided by the City Clerk.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1110. - SEPARATE BANK ACCOUNT FOR ATTORNEY'S FEES.

- (a) A candidate for elective city office or an elected city officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.
- (b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the Political Reform Act.
- (c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in the Political Reform Act.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1111. - ENFORCEMENT AUTHORITY—COMPLAINTS, LEGAL ACTION, INVESTIGATORY POWERS.

- (a) Any person who believes that a violation of any portion of this article has occurred may file a report with the Enforcement Authority. If the Enforcement Authority

determines that there is reason to believe a violation of this article has occurred, he or she shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this article has occurred or is about to occur, he or she may institute such legal action at such time as he or she deems necessary to prevent further violations or to redress prior violations.

- (b) The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this article and may demand, and shall be furnished, records of campaign contributions and expenses at any time.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1112. - ENFORCEMENT.

- (a) Each candidate or treasurer who received part or all of the contributions in violation of the contribution limits of this article, shall pay promptly, from available campaign funds, if any, the amount received in excess of the amount permitted in this article, to the City Controller for deposit in the General Fund of the city, even though outstanding debts remain unpaid because of such forfeiture.
- (b) Any person who knowingly or willfully causes another person to violate any provision of this article, or who aids and abets any other person in the violation of any provision of this article, shall be liable under the provisions of this section.
- (c) Prosecution of violation of any provision of the article shall be commenced within four years after the date of the violation.
- (d) The enforcement provisions of this section are in addition to, and not in place of, any means of enforcement or remedies at law.
- (e) Any person who violates any of the provisions of this article shall, in addition to any other provisions of this article, be subject to the enforcement provisions set forth in the Political Reform Act, which are hereby incorporated by reference.
- (f) The Enforcement Authority may institute such legal action at such time as he or she deems necessary to prevent further violations or to redress prior violations.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

SEC. 2-1113. - APPLICABILITY OF OTHER LAWS.

Nothing in this article shall exempt any person from, or excuse such person's noncompliance with, applicable provisions of any other laws of the state or any other jurisdiction.

(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).

EXHIBIT D

SEC. 3-103. - PERMISSIBLE POLITICAL ACTIVITIES.

The limitations on political activities imposed by Section 813 of the Charter shall not be deemed to prevent any person who holds a position in the administrative service, or whose name is on any register for appointment to a position in the administrative service, from

- (1) Attending a political meeting;
- (2) Enjoying entire freedom from all interference in casting his vote;
- (3) Seeking or accepting election or appointment to public office;
- (4) Seeking signatures to any initiative or referendum petition affecting his rates of pay, hours of work, retirement, civil service, or other working conditions provided such activity is not carried on during hours of work. (Rep. and Added Ord. 5988, 1961, based on former Secs. 2-814 and 2-815; Am. Ord. 69-90, 1969).

EXHIBIT E

15-2611 Other Signs

A. **Sidewalk Signs.** Sidewalk signs shall comply with the standards below. A permit is not required.

1. ***Quantity.*** A maximum of one sidewalk sign per business is allowed.

2. ***Locations.***

a. Sidewalk signs shall be located away from important paths of pedestrian travel. A five foot wide travel path shall be maintained for through pedestrian traffic, for travel from crosswalks to the primary path of through pedestrian traffic, and for travel into and out of the establishment.

b. Sidewalk signs shall not be located less than 18 inches from a curb.

c. Sidewalk signs shall not be located in front of another commercial establishment.

d. Sidewalk signs shall not be located more than 50 feet from the establishment for which it is advertising.

3. ***Design.***

a. Sidewalk signs shall have no more than two sides.

b. The height of sidewalk signs shall be no less than 18 inches and no more than 36 inches.

c. The width of sidewalk signs shall be no less than 18 inches and no more than 24 inches.

d. Sidewalk signs shall not be illuminated except by ambient sources.

B. **Banners, Streamers, Moving Signs, and Inflatables.** Banners, streamers, moving signs, and inflatables (including air dancers, balloons, and similar objects) are allowed subject to

Temporary Use Permit approval for establishments within Non-Residential Districts, subject to the following standards. Signs of this type do not count towards total maximum sign area.

1. **Maximum Number.** A maximum of one type of sign is allowed per Major Street frontage.
2. **Maximum Height.** If a banner is on a freestanding pole, the pole height shall not exceed 20 feet; all other signs shall not be located above the roofline.
3. **Maximum Size.** The maximum total sign area is 60 square feet.
4. **Minimum Separation.** Air-inflated signs shall have a minimum separation of one-half mile from other air-inflated signs on abutting parcels or adjacent to a Buffer or Residential Zoning District. Air inflated signs shall not exceed 20 feet in height.
5. **Duration.** No sign per this section shall be displayed for more than 30 days, and a period of 30 days must lapse before displaying another sign. Signs shall not be displayed for more than 60 total days during a calendar year.
6. **Removal.** Signs shall be removed within 24 hours of completion of the event.

C. **Temporary Subdivision Signs.**

1. **On-Site.** Temporary real estate signs advertising real property which has been subdivided for purposes of sale or lease shall be permitted, subject to the following conditions:
 - a. **Maximum Number.** Four per site.
 - b. **Maximum Total Sign Area.** 320 square feet plus 20 square feet for every 20 acres over 60 acres of site area.
 - c. **Maximum Sign Area per Sign.** 80 square feet for sites 20 acres or less in size. 160 square feet for sites more than 20 acres in size.
 - d. **Height Limit.** 16 feet.
 - e. **Duration.** The sign shall remain only as long as some portion of the property advertised for sale remains unsold, or for a period of two years, whichever period is shorter. The two year period shall begin on a date determined by the Director. The Director may extend this period, but not it shall not exceed one year.
2. **Off-Site.** Temporary real estate signs directing prospective purchasers to a subdivision having lots or houses for sale may be erected and maintained on private property, with the owner's permission, provided said signs do not adversely affect the use or appearance of existing buildings or landscaping and do not create hazardous traffic conditions.
 - a. **Maximum Number.** Four per subdivision.
 - b. **Maximum Sign Area Per Sign.** 32 square feet.
 - c. **Required Setback.** Five feet from the property line.
 - d. **Location.** Within one mile of the exterior boundary of the subdivision.

- e. *Height Limit.* 12 feet.
 - f. *Duration.* The sign shall remain only as long as some portion of the property advertised for sale remains unsold, or for a period of two years, whichever period is shorter. The two year period shall begin on a date determined by the Director. The Director may provide a one-time extension, but the extended period shall not exceed one year.
3. ***Subdivision Flags.*** Any residential subdivision with lots for sale may display decorative flags pursuant to the following conditions:
- a. *Number and Spacing.*
 - i. One flag every 60 linear feet of subdivision property along a major street (freeway, expressway, arterial, collector).
 - ii. One flag every 30 linear feet of subdivision property within 660 feet of the main subdivision entrance.
 - iii. One flag every 20 linear feet of the main entry way into the subdivision.
 - iv. Two flags for each model home lot. These model home flags are allowed in addition to the number of flags determined by the above linear footage measurements.
 - b. *Height Limit.* The maximum height of a flag pole shall be 20 feet.
 - c. *Maximum Sign Area per Sign.* The maximum area of a flag shall be 24 square feet. No single dimension shall exceed eight feet.
 - d. *Duration.* All pole structures and flags must be removed no later than five days after sales activity in the subdivision ceases.
 - e. *Building Permit Required.* Residential subdivision flagpoles shall not be installed without issuance of a building permit, and must conform to the above listed regulations.
 - f. *Standard Subdivisions.* The number, location, height, and size of flags for a standard subdivision shall be determined through Development Permit approval.
 - g. *Planned Unit Developments.* The number, location, height, and size of flags for a subdivision created as a Planned Unit Development (PUD) shall be determined through the processing of a Conditional Use Permit for the PUD.
- D. **Real Estate Signs.** Real estate signs are subject to the regulations below. A permit is not required. Real estate signs advertising real property for sale after being subdivided shall not be subject to this subsection, but shall be subject to Section 15-2612-C.
- 1. ***On-Site Real Estate Signs.*** On-premises signs conveying information about the sale, rental, or lease of the lot, premises, dwelling, or structure on which they are located, provided that they comply with the following standards:

Part III: Regulations Applying to Some or All Districts

- a. No more than one real estate sign per lot in residential districts, or one real estate sign per street frontage per lot in non-residential districts, is displayed at any one time;
 - b. The sign or signs do not exceed an aggregate area of six square feet in residential districts or 32 square feet in non-residential districts;
 - c. Wall signs shall not be higher than seven feet above grade in residential districts or fifteen feet in non-residential districts. Freestanding signs shall not exceed six feet in height in residential districts or eight feet in height in non-residential districts.
 - d. The sign or signs are not illuminated; and
 - e. The sign or signs are removed within 15 days after the sale, lease, or rental of the property has been completed.
 2. ***Directional Signs for Open Houses.*** Up to three off-site signs directing the public to "open house" events for the viewing of lots, premises, dwellings, or structures that are for sale, lease, or rent, are permitted on public or private land, provided that they comply with the following standards:
 - a. No sign or signs shall exceed six square feet in area, or three feet in height from finished grade.
 - b. The sign or signs may not be placed more than 12 hours before the start or remain more than 12 hours after the conclusion of the open house event.
 - c. Signs shall not inhibit circulation nor be within the visibility triangle per Section 15-2018, Intersection Visibility.
- E. **Signs Associated with Projects Under Construction.** Signs located on project sites that are under construction are subject to compliance with the regulations below. A permit is not required.
1. One sign per street frontage except for projects having an excess of 500 lineal feet of street frontage, one additional sign may be allowed.
 2. Signs shall be limited to a maximum of 80 square feet in area and 10 feet in height.
 3. Signs shall be removed before occupancy of the site.
- F. **Flags.** Free standing flagpoles or decorative flags on light posts may be installed in accordance with the following standards:
1. ***Location.*** Flagpoles shall not be located within any required front yard, street side or side yard setbacks. Flagpoles shall be located outside of the visibility triangle. Refer to Section 15-2018, Intersection Visibility.
 2. ***Maximum Flagpole Height.*** The pole height shall not exceed 25 feet.
 3. ***Maximum Size.*** The maximum total flag area is 24 square feet.
 4. ***Decorative Flags.*** Flags may be for non-commercial purposes. Permitted flags include, but are not limited to, countries, counties, cities, etc., or decorative flags that do not contain a commercial message.

G. **Yard Signs**

1. **Maximum Size.** Signs shall not exceed 32 square feet in area.
2. **Maximum Height.** Signs shall not exceed 10 feet in height.
3. **Location.** Signs shall not be attached to any utility pole and such sign, or portion thereof, is not placed in any public right-of-way or on any property owned by the City. Such signs may be placed on private property with the permission of the property owner or may be attached to an existing sign on private property with the permission of the sign owner or lessee.
4. **Shall Not Obstruct.** Such signs shall not be erected in such a manner that they will, or reasonably may be expected to, interfere with, obstruct, confuse, or mislead traffic.
5. **Maintenance.** Signs not erected or maintained in accordance with the provisions of this subsection shall be the responsibility of the owner of the property upon which the sign is located, shall be deemed a public nuisance, and may be abated by such property owner, the candidate or person advocating the vote described on the sign (if applicable), or the Director. The cost of removal incurred by the Director shall be assessed against the property owner and/or, if applicable, the candidate and/or the person advocating the vote described on the sign.